

## SULZER DEFENSE GIVEN BLOW BY COURT'S RULING

## Challenged Senators Are Seated by Unani-

OBJECTIONS FORM  
BASE OF DEFENSE

Now Apparent That Governor  
and His Attorneys Are Deter-  
mined to Fight It Out to  
End—Sulzer Recognizes  
Glynn as Acting

[Special to The Times-Dispatch.]  
Albany, N. Y., September 12. Governor William Sulzer's first line of defense in the impeachment charges against him was utterly splintered to-day by a unanimous vote of the high court of impeachment to admit as members of the court Senators Wagner, Frawley, Sanner and Ramsperger who had been disqualified.

The vote followed a decided opinion from Presiding Judge Cullen that the challenged judges must sit.

The subsequent lines of defense by the Governor are:

First. The contention that the high court is without jurisdiction, because the assembly had no right to impeach.

The first of these arguments, a two-hour argument by Louis Marshall for the Governor, which will be continued on reconvening at 2 o'clock Tuesday afternoon.

Second. That the acts of the Governor cited in the articles do not constitute cause for impeachment. This conten

Third, that the articles of impeachment are defective in form. Every article will be attacked separately in the legal skirmish over this allegation.

Fourth, a straight out and out fight on the merits as charged in the indictment, with each side presenting masses of evidence on both sides.

**Will Fight to End.**

It is certain that the Governor and his lawyers intend now to fight to the end. But the Governor's case is clearly based on their belief in their ability by raising technical objections to have the bill of impeachment dismissed, and to save the Governor from the humiliating impeachment trial. The fact that on two points Sulzer has years occupied three hours of to-day's

In view of the plain intention of the defense to make the fight on technicalities, the highest importance is attached to a statement made from the bench by Chief Justice Roger Taney. It thus far has been impressed on the court as the ultimate law. He said:

"Of course, this court is not expected to proceed with the technical intricacies which is required in ordinary litigation."

**Garrison Put in Penitentiary.**

While the thundering guns of oratory told every one within a block of the Capitol that the battle for the Government was not over, the Government was doing other things with a marked bearing on the situation were happening.

First, James C. Garrison, arrested

for his mobbing for contempt of the Legislature. He was taken from the quarters and put in solitary confinement in a cell in the Albany County Penitentiary. This was done at the instance of Assembly leaders, who had heard that Garrius was living, much as Banker Robb lived, in comfort. When Mr. Sulzer heard that Garrius, his staunchest supporter, was in the penitentiary, he said: "Too bad. I want him to come and see me when they let him out."

**Sulzer Acknowledges Glynn.** The second event of moment was a letter to Acting Governor Glynn from Sulzer's secretary, which recognized Glynn's authority to act as Governor until the constitutionally stipulated matters for the Acting Governor were decided. This is the first time that Sulzer, by word or intimation, has shown lack of belief in his power to act as Governor of the State.

Only one vote was lacking, and scouts were out hunting for that where a score or more members served notice on Levy and the Speaker that they would not remain in session another night. If forced to do so they threatened to break away from the organiza-

tion and vote against the impeachment managers. At a hurried meeting of the board of managers it was decided to put off the amendments until Thursday. By that time the trial will be well under way, and it will be too late to add the new charges.

**Presiding Judge Takes Charge.**  
Although such legal heavyweights as Alton B. Parker, for the prosecution; of D. Cady Herlick and Louis Marshall, for the defense, were present, it was the big fight in the high court to-day, the presiding judge with a few words took charge of the situation, and directed it in the businesslike fashion with which the trial was begun.

The disposition of some of the members of the court, into executive session and abate the first question raised, the effect of the admission of the challenged Senators, came to an end, when Justice Sullivan observed:

"The presiding judge has the opinion that this matter should be determined now, but if my brothers of the court want to consider that, of course, they may adjourn to do so at their pleasure. If the judge is of the opinion we will proceed with the disposition of the case now before us."

No such request was made, and the vote showed no vote that dissented from the opinion of the presiding judge.

**Senators Not Excluded.**  
The motion to exclude Wagner was based on the contention that he would benefit the case by his presence by becoming Lieutenant-Governor in the event of Sutherland's removal. Fawcley, Sanger